

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

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|--|---|---------------------------|
| Lynn Jeffrey Chronister, #189827, |) | C/A No.: 0:07-4017-JFA-BM |
| |) | |
| Petitioner, |) | |
| vs. |) | O R D E R |
| |) | |
| Jon Ozmint, Director of the South Carolina Department of Corrections, |) | |
| |) | |
| Respondent. |) | |
| _____ |) | |

The *pro se* petitioner, Lynn Jeffrey Chronister, initiated this action pursuant to 28 U.S.C. § 2254 seeking relief from his state criminal convictions.

The Magistrate Judge assigned to this action¹ has prepared a comprehensive Report and Recommendation wherein he suggests that the petition is successive and that this court cannot consider a successive petition without a Pre-filing Authorization from the Fourth Circuit Court of Appeals. The Report sets forth in detail the relevant facts and standards of law on this matter, and the court incorporates such without a recitation.

The petitioner was advised of his right to file objections to the Report and Recommendation, which was entered on the docket on December 20, 2007. He did not file timely objections to the Report.

¹ The Magistrate Judge's review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report to which specific objection is made and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

As the Magistrate Judge notes, the petitioner has filed a previous habeas petition in this court with respect to his state court conviction. In his first petition, Civil Action No. 4:98-3372-JFA (Fourth Circuit Docket No. 99-7424), the undersigned granted summary judgment to the respondents. The petitioner's subsequent appeal was dismissed by the Fourth Circuit.

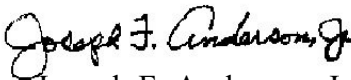
Under the Anti-Terrorism and Effective Death Penalty Act of 1996 ("AEDPA") and 28 U.S.C. § 2244(b)(3)(A), a prospective applicant must file in the court of appeals a motion for leave to file a second or successive habeas application in the district court. It appears from the record before this court, that the petitioner has failed to obtain prior authorization from the Fourth Circuit Court of Appeals. Accordingly, this court does not have the appropriate jurisdiction to consider the petition.

After carefully reviewing the applicable law, the record in this case, and the Report and Recommendation, the court finds the Magistrate Judge's recommendation fairly and accurately summarizes the facts and applies the correct principles of law. The court, therefore, adopts the recommendation of the Magistrate Judge in full and incorporates this Report by specific reference.

Accordingly, the petition is dismissed without prejudice and without issuance and service of process.

IT IS SO ORDERED.

January 23, 2008
Columbia, South Carolina


Joseph F. Anderson, Jr.
United States District Judge